



CONTRACT FOR PROPERTY MANAGEMENT SERVICES FOR THE CITY OF SEDONA

This contract is made and entered into on this 12th day of July 2005, by and between the City of Sedona ("CITY") and John D. Miller Real Estate Services, Inc., ("BROKER"), Scott Anderson, CCIM, agent:

1.
 - A. The BROKER, through Scott Anderson, CCIM, its agent, inspected the city offices at 102 Roadrunner Drive, Sedona, Arizona, on February 9, 2005, and submitted a report and proposal to perform management services for the maintenance of the property. Recommendations as to maintenance needs were also based on prior management of the complex by the BROKER, and the archived electronic files of the property, historical maintenance records, repair issues, and construction information, which will be updated under this agreement, and available to the CITY upon request.
 - B. CITY has created a web-based property maintenance request form on its intranet <https://intranet.sedonaaz.gov/propertyManager/submitRequest.aspx> that will be the primary reporting method to the BROKER of needed maintenance or repair requests, subject to prioritization and budget approval of the City Manager's Office.
 - C. The initial property management issues developed as a result of the inspection and current maintenance needs of the CITY are drainage and roofing, reconstruction of areas with mold remediation, exterior stucco and painting, repairs to the concrete in the plaza, driveway re-sealing and re-striping, carpeting, and conversion of plaza fountains to planters with drip irrigation systems. The priority of these issues will be determined by the CITY based on available funding.
2. *Management Services.* BROKER agrees to provide the following management services under this agreement:
 - (a) Advertise for, hire, and supervise necessary licensed contractors to complete repairs and maintenance needs of the CITY as may be identified and authorized by the City Manager's Office. All purchasing shall follow the procedures of City Code Section 3-4 unless otherwise authorized by the City Manager. Copies of all contracts, bonds, and warranties for any work done shall be provided to the CITY on execution
 - (b) Prepare and submit maintenance reports and recommendations, including maintenance trends, short and long-term capital plans (3-year and 5-year) for building modifications or equipment replacements, and general liability (risk) assessment. The CITY will designate which expenses are common area costs.
 - (c) Maintain the exterior of the physical property and its structures, improvements and common areas. This applies to the complex at Roadrunner Drive known as buildings 100, 102, 104, 106, and 108, and does not include remote CITY property, such as the sewer treatment plant or park facilities.
 - (d) Maintain the interior of the CITY buildings, including walls, floors, ceilings, electrical, plumbing, heating and cooling, fire suppression systems, all other non-specialized systems within the envelope of the premises. This will include janitorial services. Specialized systems shall mean those systems that are not commonly found within a general commercial building, such as lab testing equipment, computer servers, and telephone dispatch systems. BROKER, at its sole discretion, shall determine what shall constitute a "specialized system" on a per case basis. Occupants other than CITY shall maintain the interiors of their premises per their lease agreements with the CITY. BROKER shall not maintain office equipment of any kind, machinery, computers, satellite dishes, or antennas.

- (e) Review submittals of the CITY for maintenance services through the above intranet site, and prepare responses and maintenance schedules to perform the work.
3. *Compensation and Term.* . BROKER shall be paid \$2,500.00 per month for the above services, payable monthly in advance, beginning July 15, 2005, for an initial term of twenty-four (24) months, or through July 15, 2007, unless otherwise terminated by the CITY. Either party may terminate this agreement upon 60 days advance written notice. Upon termination of the agreement, the BROKER shall provide all maintenance records, reports, and vendor/contractor contracts and warranties to the CITY. This agreement will also terminate if Scott Anderson is no longer an independent contractor with BROKER, and personally managing the property of the CITY.
 4. *Ownership of Documents.* All documents including, but not limited to, correspondence, estimates, notes, recommendations, analyses, reports and studies which are prepared in the performance of this contract are to be, and shall remain, the property of the CITY and are to be delivered to the CITY before the final payment is made to the BROKER. BROKER shall retain copies of any such data per the current requirements of the Arizona Department of Real Estate.
 5. *Professional Responsibility.* BROKER hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law.
 6. *Compliance With Law.* It is contemplated that the work and services to be performed by BROKER hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations that are in effect on the date of this contract. Any subsequent changes in applicable laws, ordinances rules or regulations, which necessitate additional work, shall constitute a change in the scope of work.
 7. *Indemnification.* With respect to its professional services hereunder, BROKER agrees to indemnify and hold harmless the CITY, its officials and its employees from and against all liability claims, demands and expenses, including court costs and reasonable attorney fees, in an amount not to exceed the total compensation under this agreement, on account of any injury, loss or damage which arise out of or are in any manner connected with the work negligently performed under this contract, or on account of any injury, loss or damage which arise out of or are in any manner connected to any omission or professional error of the BROKER, or any officer, employee or agent of the BROKER.
 8. *Non-Assignability.* Neither this contract, nor any of the rights or obligations of the parties hereto, shall be assigned by either party without the written consent of the other.
 9. *Venue.* This Agreement shall be governed by the laws of the State of Arizona, and any legal action concerning the provisions hereof shall be brought in the County of Coconino, State of Arizona.
 10. *Independent Contractor.* BROKER is an independent contractor. Notwithstanding any provision appearing in this contract, and any exhibits and/or addenda, all personnel assigned by BROKER to perform work under the terms of this contract shall be, and remain at all times, employees or agents of BROKER for all purposes. BROKER shall make no representation that it is the employee of CITY for any purpose.
 11. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this contract by City shall not constitute a waiver of any of the other terms or obligations of this contract.
 12. *Entire Agreement.* This contract is the entire agreement between BROKER and CITY, superseding all prior oral or written communications. None of the provisions of this contract may be amended, modified or changed except by written amendment executed by both parties.

13. *Non-Discrimination.* BROKER, its agents, employees, contractors and subcontractors shall not discriminate on the basis of race, color, creed, national origin, ancestry, age, sex, religion or disability in any employment policy or practice.
14. *Dispute Resolution.* The parties agree in good faith to attempt to resolve amicably, without litigation, any dispute arising out of or relating to this contract. In the event that any dispute cannot be resolved through direct discussions, the parties agree to endeavor to settle the dispute by mediation. Either party may make a written demand for mediation, upon which demand the matter shall be submitted to a mediation firm mutually selected by the parties. The Mediator shall hear the matter and provide an informal opinion and advise within twenty (20) days following written demand for mediation. Said informal opinion and advice shall not be binding on the parties, but shall be intended to help resolve the dispute. The Mediator's fee shall be shared equally by the parties. If the dispute has not been resolved, the matter may then be submitted to the judicial system.
15. *Attorneys Fees and Costs.* Should any legal action, including arbitration, be necessary to enforce any term of provision of this contract or to collect any portion of the amount payable hereunder, then all expenses of such legal action or collection, including witness fees, costs of the proceedings and attorneys' fees, shall be awarded to the substantially prevailing party.
16. *Payment Procedure.* BROKER shall receive initial invoices for the maintenance services from the vendors and mark them for approval. The invoices will be forwarded monthly to the CITY for payment.
17. *Priority of Projects and Maintenance.* Designated CITY employees will prepare maintenance requests on the above CITY intranet site, and their priority will be reviewed by the City Manager's office. The contact person for the BROKER shall be Andrea Costello, assistant to the City Manager.
18. *Model Contracts.* The CITY will prepare standard contracts for use by the BROKER, one for special projects, and one for continuing maintenance services.
19. *Notice.* Any notice or communication between BROKER and CITY which may be required, or which may be given, under the terms of this contract shall be in writing, and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first class United States Mail, addressed as follows:

CITY: City of Sedona
Attn: City Manager
102 Roadrunner Drive
Sedona, AZ 86336

BROKER: John D. Miller Real Estate Services, Inc.
Attn: Scott Anderson, CCIM
Post Office Box 4208
Sedona, AZ 86340

Contract agreed to and accepted by the parties this 12th day of July, 2005:

CITY OF SEDONA, ARIZONA:

BROKER:

John D. Miller Real Estate Services, Inc.
An Arizona Corporation:

City Manager

John D. Miller, Broker

ATTEST:

City Clerk

Scott Anderson, CCIM
Property Manager

APPROVED AS TO FORM:

City Attorney